

## Message Text

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ORIGIN EB-11

INFO OCT-01 ARA-16 IO-14 ISO-00 FRB-03 OMB-01 TAR-02 SP-03

SWF-02 AGR-20 AID-20 CIAE-00 COME-00 INR-11 LAB-06

NSAE-00 OIC-04 RSC-01 SIL-01 STR-08 TRSE-00 CIEP-03

CEA-02 L-03 SCI-06 NSF-04 AF-10 EA-11 EUR-25 NEA-14

SSO-00 INRE-00 /202 R

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SCI - MR. PACKER

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TO USMISSION GENEVA IMMEDIATE

AMEMBASSY BRASILIA PRIORITY

INFO ALL AMERICAN REPUBLIC DIPLOMATIC POSTS

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DELIVER TO USDEL TO UNCTAD TDB BY 9 AM THURSDAY

E.O. 11652: N/A

TAGS:TGEN, EGEN, EIND, UNCTAD

SUBJECT: UNCTAD TDB AGENDA ITEM 8E - TRANSFER OF TECHNOLOGY

REFERENCE: BRASILIA 6390, GENEVA 5401, 5369

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1. THE BRASILIA SUB-GROUP III DEBATE ON "CODE OF CONDUCT"

INDICATES THE LATIN AMERICANS CLEARLY BELIEVE THERE IS A CLOSE RELATIONSHIP BETWEEN THE WORK OF THE INTER-AMERICAN WORKING GROUP ON SCIENCE AND TECHNOLOGY AND THAT OF UNCTAD ON TRANSFER OF TECHNOLOGY AND HAVE TAKEN THAT AS A STRONG POSITION IN THE RECENTLY CONCLUDED SUB-GROUP III MEETING IN BRASILIA. WE BELIEVE THE U.S. STRATEGY AT THE CURRENT UNCTAD MEETING SHOULD BE TO AVOID DIRECT CONFLICT WITH THE LATIN AMERICANS BUT WITHOUT ACCEPTING THAT THE U.S. POSITION SHOULD BE IDENTICAL IN BOTH FORUMS.

2. IN VIEW UNCTAD LEGAL STAFF RULING THAT CODE OF CONDUCT RESOLUTION CANNOT BE AMENDED AND IN VIEW OF LDC REFUSAL TO REOPEN NEGOTIATIONS, AND THE CODE HAVING BECOME A MAJOR ISSUE IN SUB-GROUP III BRASILIA DELIBERATIONS, USDEL IS INSTRUCTED TO PURSUE PRIMARY FALLBACK POSITION AS STATED IN POSITION PAPER, THAT IS, TO ALLOW THE MATTER TO PROCEED AS ENVISAGED IN THE CODE OF CONDUCT RESOLUTION WITHOUT MAKING A MAJOR ISSUE, AT THIS TIME OF THE QUESTION OF WHETHER THE CODE WILL BE BINDING OR NON-BINDING.

3. USDEL, IN STATING US WILLINGNESS TO PARTICIPATE IN THE GROUP OF EXPERTS STUDY OF THE CODE, MAY, IF DEEMED APPROPRIATE, INCLUDE A COMMENT TO THE EFFECT THAT "BECAUSE OF PRACTICAL AND LEGAL PROBLEMS ASSOCIATED WITH A BINDING CODE AS REFLECTED IN PREVIOUSLY EXPRESSED VIEWS, THE U.S. BELIEVES THAT THE ONLY PRACTICAL APPROACH WOULD BE A NON-BINDING CODE."

4. IN REGARD TO EXPERTS GROUP ON PATENTS, USDEL IS AUTHORIZED TO INDICATE TO GROUP B THAT THE U.S. WOULD BE WILLING TO STATE THAT THE U.S. WILL NOT REPEAT NOT PARTICIPATE IN PATENT EXPERT GROUP UNDER PRESENT TERMS OF REFERENCE IF FOUR OTHER KEY GROUP B COUNTRIES (FROM GROUP OF UK, FRG, SWITZERLAND, CANADA, FRANCE, AND ITALY ) ALSO AGREE TO NON-PARTICIPATION. IF THE USDEL CAN SECURE SUCH AGREEMENT, THE USDEL IS AUTHORIZED TO AGREE TO ANNOUNCEMENT IN PLENARY OF DECISION OF KEY GROUP B COUNTRIES NOT TO PARTICIPATE IN PATENT GROUP UNDER PRESENT TERMS OF REFERENCE.

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5. IN THE EVENT THAT THE USDEL CANNOT GET FOUR OF THE AFOREMENTIONED GROUP B COUNTRIES TO AGREE TO NON-PARTICIPATION, THE USDEL SHOULD RESERVE OUR POSITION IN THE PLENARY AND SHOULD ATTEMPT TO GET OTHER GROUP B COUNTRIES TO MAKE A SIMILAR STATEMENT (I.E. RESERVING THEIR POSITION).

6. USDEL SHOULD INFORMALLY URGE LEADERS OF GROUP OF 77

TO TAKE A MORE CONCILIATORY ATTITUDE LEADING TO MORE REASONABLE TERMS OF REFERENCE FOR AN EXPERT GROUP ON PATENTS. IN DOING SO, U.S. INTEREST IN PARTICIPATING SHOULD BE EMPHASIZED. IT SHOULD BE POINTED OUT THAT REASONABLE AND REALISTIC TERMS OF REFERENCE WOULD ENSURE THE WIDEST POSSIBLE PARTICIPATION BRINGING TOGETHER AN OPTIMUM SPECTRUM OF EXPERIENCE AND EXPERTISE TO SEEK MUTUALLY SATISFACTORY SOLUTIONS TO COMPLEX PATENT PROBLEMS. SUCH A CONSTRUCTIVE AND PRACTICAL APPROACH WOULD TAKE INTO ACCOUNT THE INTERESTS OF BOTH DEVELOPING AND DEVELOPED COUNTRIES. THESE INTERESTS ARE NOT REPEAT NOT MUTUALLY EXCLUSIVE.

7. FYI: DEPARTMENT AND PATENT OFFICE HAVE STUDIED ISSUE OF UNCTAD PATENT EXPERT GROUP CAREFULLY IN THE CONTEXT OF THE BRASILIA MEETING. WE DO NOT PERCEIVE ANY REASONABLE OR LOGICAL BASIS FOR THE LATIN AMERICANS TO LINK OUR POSSIBLE NON-PARTICIPATION IN THE UNCTAD PATENT EXPERT GROUP UNDER THE PRESENT UNDESIRABLE TERMS OF REFERENCE WITH THE INTER-AMERICAN AND UNCTAD CODE OF

CONDUCT QUESTION. IT SHOULD BE NOTED THAT U.S. PARTICIPATION IN THE UNCTAD CODE OF CONDUCT EXERCISE IS NO REPEAT NO LONGER DEPENDENT ON THE PRE-CONDITION THAT THE CODE NOT REPEAT NOT BE LEGALLY BINDING. OUR POSITION ON THE UNCTAD PATENT EXPERT GROUP TAKES INTO ACCOUNT THE VIEWS OF OTHER GROUP B (DEVELOPED) COUNTRIES AND THE FACT THAT THE PATENT STUDY HAS WORLD-WIDE IMPLICATIONS FOR THE INDUSTRIAL PROPERTY RIGHTS OF THE U.S. AND OTHER DEVELOPED COUNTRIES. FURTHER, THE CURRENT TERMS OF REFERENCE OF THE UNCTAD PATENT EXPERT GROUP MAY WELL DUPLICATE OR OVERLAP A PROPOSED PROJECT BY THE WORLD INTELLECTUAL PROPERTY ORGANIZATION LIMITED OFFICIAL USE

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TION'S "PERMANENT COMMITTEE FOR THE ACQUISITION BY DEVELOPING COUNTRIES OF TECHNOLOGY RELATED TO INDUSTRIAL PROPERTY." KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** SCIENTIFIC COOPERATION, STANDARDS, FOREIGN MINISTERS MEETINGS, COMMITTEE MEETINGS, TECHNOLOGICAL EXCHANGES, RESOLUTIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 28 AUG 1974  
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**Disposition Action:** RELEASED  
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**Disposition Authority:** martinml  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
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**Previous Classification:** LIMITED OFFICIAL USE  
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**TAGS:** TGEN, EGEN, EIND, UNCTAD  
**To:** GENEVA BRASILIA  
**Type:** TE  
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